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Filed by ECF

Honorable Judge Lawrence J. Vilardo
New Jersey District Court
50 Walnut Street
Newark, NJ 07102

Re: Epps v. City of Buffalo, 19-cv-00281 (LJV-LGF)

Dear Judge Vilardo:

We represent Plaintiff Cory Epps, along with Rickner, PLLC. We write to highlight a portion of the record that is relevant to the testimonial immunity point addressed at today's oral argument. The following exchange occurred at James Giardina's deposition (DE 78.6, p. 91) :

- Q. Exhibit 14 [Giardina's 8/30/00 affidavit, DE 89.31], did you type up Exhibit 14?
- A. No.
- Q. Would it be fair to say that somebody from the District Attorney's Office created Exhibit 14?
- A. That's what it looks like.
- Q. Now, do you remember meeting with somebody from the District Attorney's Office with respect to Exhibit 14 or the case of Cory Epps at all back in the '90s?
- A. No, not at all.
- Q. Would it have been your general practice to discuss facts with a District Attorney before an affidavit was typed up?
- A. Yes.
- Q. So would it be correct to say that Exhibit 14 is based on information you provided to the district attorney prior to when it was signed?
- A. Right.

Thank you for your consideration.

Respectfully submitted,



Glenn A. Garber

cc: (By ECF)
Hugh Russ, III, Esq.
Peter A. Sahasrabudhe, Esq.
Rob Rickner, Esq